



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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September 29, 2006

To: Mayor Michael D. Antonovich
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Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

**CONTRACTING PREFERENCE FOR NONPROFIT AGENCIES PROVIDING
TRANSITIONAL JOB PROGRAMS**

On June 7, 2006, your Board approved a motion by Supervisor Yaroslavsky instructing the Chief Administrative Office (CAO) and County Counsel, in conjunction with the Office of Small Business, to review the feasibility of extending the County's local small business enterprise preference program to nonprofit businesses that provide transitional jobs and supportive services to the County's most difficult to employ population. The purpose of this memorandum is to provide you with the findings of our review.

As reported to your Board on June 7, 2006, CAO staff met with representatives from County Counsel, County Office of Small Business, Internal Services Department, the Auditor-Controller, and the County Office of Affirmative Action Compliance. The Work Group reviewed the County's existing Prop A contracts, since these will probably be the general focus of a transitional jobs preference program. The City of Los Angeles' transitional jobs opportunity program was also reviewed.

Based on its research, the Work Group found that businesses providing transitional employment programs incur higher overhead costs than other businesses due to the need for increased supervision, counseling, and training of the hardest to employee. As a result, these agencies are at a competitive disadvantage in obtaining County contracts. The Work Group developed the Transitional Job Opportunities Preference

Program Ordinance for your Board's review in recognition of these special overhead requirements (attached). The Ordinance, and Program, was designed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure that all businesses, including nonprofits that provide transitional employment, are provided equal opportunities in County purchasing and contracting activities.

The Ordinance requires that each participating County department be responsible for certifying that a potential contractor is a transitional employer. Qualification for potential transitional employers includes:

- The entity is a nonprofit organization recognized as tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Services Code;
- The entity is incorporated in the State of California and/or its principle place of business is located in the County;
- The entity shall set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to the department with their bid response to the solicitation for which they are competing;
- The entity must have been in operation for at least one year providing transitional job and the related supportive services to program participants; and,
- The entity must also provide a profile of their program, description of their program components designed to assist program participants, number of past program participants, and any other information requested by a contracting department.

In addition, it is recommended that Transitional Job Program contracts contain a supportive services component that would include, but not be limited to, counseling services, individual case management, pre-employment job readiness training, daily monitoring of participants while on the job, provision of unsubsidized competitive employment opportunities, and assistance in applying for, obtaining, and maintaining unsubsidized competitive employment.

Finally, the Work Group discussed the County Living Wage Ordinance and its applicability to potential Transitional Job Program contracts. The Work Group also reviewed the City of Los Angeles' Living Wage Ordinance. Based on these discussions, County Counsel recommends that County departments make the determination as to

Each Supervisor
September 29, 2006
Page 3

whether the Living Wage Ordinance applies based on the criteria set forth in the Ordinance and any implementation documents the County has issued. For instance, the Living Wage Ordinance would apply if the nonprofit were submitting a proposal to a "Prop A" Request for Proposal for landscaping services.

If you have any questions or need additional information, please contact me, or your staff may contact Lari Sheehan at (213) 893-2477, or lsheehan@cao.lacounty.gov.

DEJ:LS
MDC:os

Attachment (1)

c: Executive Officer, Board of Supervisors
County Counsel
Internal Services Department
Office of Affirmative Action Compliance
Office of Small Business

Chapter 2._____ TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

2.____.010 Introduction.

The board of supervisors finds that it is of benefit to the county of Los Angeles to promote and facilitate transitional job opportunities for individuals who are homeless and other individuals who have been out of work for an extended period of time. Individuals who have not worked for an extended period of time face considerable barriers when trying to re-enter the workforce. Transitional employment provides people who are the hardest to employ with opportunities to develop job and social skills that are necessary to succeed in the workplace. Nonprofit businesses with transitional employment programs incur higher overhead costs than other businesses due to the need for increased supervision, counseling, and training of the hardest to employ. Therefore, such agencies are at a competitive disadvantage in obtaining County contracts, in which estimated cost is a significant factor.

2.____.020 Purpose.

The County of Los Angeles transitional job opportunities preference program is a race and gender-neutral program designed to establish a purchasing and contracting preference for nonprofit organizations that provide transitional jobs to the long-term unemployed in the execution of their work under a purchase order or contract with the County of Los Angeles. The transitional job opportunities preference program was designed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure that all businesses, including nonprofit businesses that provide transitional employment services, are provided equal opportunities in County purchasing and contracting activities.

2.____.030 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as having the following meaning:

- A. "County" shall mean the county of Los Angeles or any public entities for which the Board of Supervisors is the governing body.
- B. "Department" shall mean the County department, entity, or organization responsible for the solicitation.
- C. "Contractor" shall mean any person, firm, corporation, partnership, or any

combination thereof, who submits a bid or proposal or enters into a contract with the County of Los Angeles.

- D. "Principal place of business" shall mean the state, county, or city in which a substantial portion of the business's corporate operations take place, or in which the entity's executive and administrative functions are performed.
- E. "Solicitation" shall mean the county's process to obtain bids or proposals for goods and services.
- F. "Supportive services" shall mean services including, but not limited to, counseling services, individual case management, pre-employment job readiness training, daily monitoring of participants while on the job, provision of unsubsidized competitive employment opportunities, and assistance in applying for, obtaining, and maintaining unsubsidized competitive employment.
- G. "Transitional job" shall mean short-term, wage-paying, subsidized employment that combines real work, skill development, and supportive services to help participants overcome barriers to employment and transition to unsubsidized competitive employment.
- H. "Transitional employer" shall mean a nonprofit organization that provides transitional jobs for the long-term unemployed and has been certified as a transitional employer as provided in this chapter.

2.____.040 Administration

The Chief Administrative Officer (CAO) with the assistance of county counsel (COCO), Internal Service Department (ISD), and the Office of Affirmative Action Compliance (OAAC), shall issue interpretations of the provisions of this chapter, and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

2.____.050 Certification

Each department is responsible for certifying that a contractor is a transitional employer. A contractor shall qualify as a transitional employer, if all of the following are met:

- A. The entity is a nonprofit organization recognized as tax exempt pursuant to section 501(c) (3) of the Internal Revenue Code.
- B. The entity is incorporated in the state of California and/or its principal place of business is located in the county of Los Angeles.

- C. The entity shall set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms supplied by the County, and submit the necessary certification forms, along with their application form (Form #_____) and three (3) most recent annual tax returns (Form 990 or Form 990-EZ) to the department with their bid response to the solicitation for which they are competing.
- D. The entity must have been in operation for at least one year, providing transitional jobs and the related supportive services to program participants.
- E. The entity must also supply the following information:
 - 1. A profile of their program participants (e.g., homeless individuals, individuals with addictions, at-risk youth, etc.).
 - 2. A description of the entity's program components designed to help program participants transition towards unsubsidized competitive employment, including a description of the supportive services offered to participants.
 - 3. The number of participants in the program during the last calendar year.
 - 4. Any other information requested by the department.

Each department shall certify transitional employers and maintain records of such certified businesses and their participation in County purchasing and contracting.

2.____.060 Responsibilities and Standards.

- A. In order to facilitate the participation of transitional employers in County purchases of goods and services, departments shall provide for transitional employer preferences in their purchase of goods and services where responsibility and quality are equal.
- B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the transitional employer shall be five percent of the lowest responsible bidder meeting specifications, determined according to the instructions issued by the CAO.
- C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, the preference to the transitional employer shall be five percent of the cost/price component of the evaluation method, determined according to the instructions issued by the CAO.
- D. In order for a transitional employer to be eligible to claim the preference, the entity must request the preference in the solicitation response.

2.____.070 Exclusions.

The transitional job opportunities preference shall not be given for the following county

purchases:

- A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.
- B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.40 or a successor provision.
- C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.
- D. A non-agreement purchase with a value of less than \$5,000.00 pursuant to the Los Angeles County Purchasing Policy Manual, Section A-03000 or a successor provision.
- E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of the receipt of the federal funds.

2. ____ .080 Violations and sanctions.

- A. The information furnished by each solicitation respondent requesting a transitional job opportunities preference shall be under penalty of perjury.
- B. No person or entity shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain certification as a transitional employer for the purpose of this chapter.
- C. No person or entity shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a transitional employer.
- D. An entity which has obtained county certification as a transitional employer by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

- 1. Pay to the county any difference between the contract amount and what the county's

costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision 1 of subsection D of this section, be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved; and
3. Be subject to the provisions of Chapter 2.202 of the county code (Determinations of Contractor Non-responsibility and Contractor Debarment).
- E. The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify OAAC of this information prior to responding to a solicitation or accepting a contract award.

2.____.090 Appeals for reconsideration of transitional employer certification.

OAAC will investigate any complaint of eligibility received by the county concerning the transitional job opportunities preference program.

2.____.100 Applicability.

This chapter shall apply to all solicitations issued 90 days after the effective date of the ordinance codified in this chapter.